

United States Courts  
Southern District of Texas  
FILED

AO 91 (Rev. 11/11) Criminal Complaint

SEP 18 2019

## UNITED STATES DISTRICT COURT

for the

Southern District of Texas

David J. Bradley, Clerk of Court

United States of America

v.

Kyle PHELPS

Case No.

2:19mj3655

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 16, 2019 in the county of Nueces in the  
Southern District of Texas, the defendant(s) violated:

## Code Section

## Offense Description

18 U.S.C. § 1951

Whoever in any way or degree, obstructs, delays, and affects commerce, or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do.

18 U.S.C. § 924(c)(1)(A)

A person knowingly used/carried/possessed a firearm; and the use or carrying of the firearm was during and in relation to, or the possession of the firearm was in furtherance of, the person's crime of violence for which he may be prosecuted in a court of the United States.

This criminal complaint is based on these facts:

See attached Affidavit

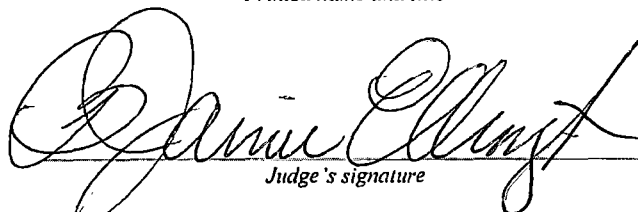
☒ Continued on the attached sheet.

Complainant's signature

Richard Miller, Supervisory Special Agent- ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: 09/18/2019

Judge's signature

City and state: Corpus Christi, TX

B. Janice Ellington, United States Magistrate Judge

Printed name and title

## **AFFIDAVIT IN SUPPORT OF AN ARREST WARRANT**

I, Richard Miller, being duly sworn, depose and state that:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice, and have been so employed since July 16, 2001. I am a graduate of the United States Department of Treasury Criminal Investigator Training Program and the ATF National Academy. As a Special Agent with the ATF, I am vested with the authority to investigate violations of Federal laws, including Title 18 and Title 26 United States Code. I know that it is a violation of:

18 U.S.C. § 1951 - Whoever in any way or degree, obstructs, delays, and affects commerce, or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do.

18 U.S.C. § 924(c)(1)(A) – A person knowingly used/carried/possessed a firearm; and the use or carrying of the firearm was during and in relation to, or the possession of the firearm was in furtherance of, the person's crime of violence for which he may be prosecuted in a court of the United States.

2. Your affiant is familiar with the information contained in this affidavit, either through personal investigation or through discussion with other law enforcement officers, who have participated in and have contributed documentary reports of their investigative efforts in this matter.
3. On September 17, 2019, Your Affiant reviewed Corpus Christi PD Offense Report number 1909160024 (Aggravated Robbery). This report documents on September 16, 2019 at approximately 4:26 am CCPD Officers were dispatched to a reported Aggravated Robbery of the Stripes Convenience Store located at 3042 S. Port Ave. in Corpus Christi, TX.
4. Upon arrival Officer 1 met with the Stripes store clerk, who advised a male with no shirt, blue jeans and a red hat robbed the store at gunpoint. The suspect was later identified as Kyle PHELPS. The clerk stated PHELPS walked up to the counter and put a drink on the counter. PHELPS then pulled out a black handgun and pointed it at the clerk. PHELPS then demanded money from the cash register. The clerk stated she grabbed all of the money out of the cash register and handed it to PHELPS. PHELPS then demanded a pack of cigarettes so the clerk handed PHELPS a pack of Marlboro cigarettes (green pack). PHELPS then demanded a lighter so the clerk handed him a lighter. The clerk stated PHELPS then left the store on a bike headed north on S. Port Ave.

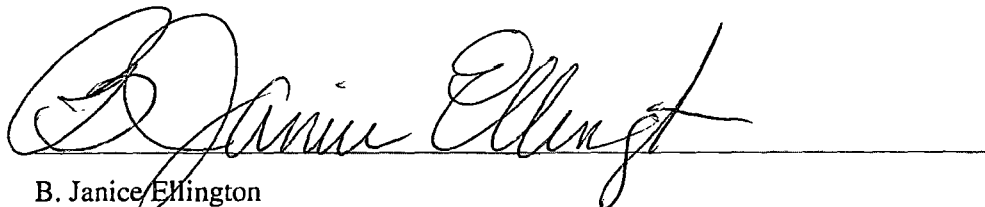
5. After speaking to the store clerk CCPD Officer 1 reviewed store surveillance video of the robbery. CCPD Officer 1 observed PHELPS walk into the store, walk up to the counter with a drink, pull a black handgun out of his left front pants pocket and point the gun at the clerk. PHELPS was observed taking the cash from the cash register and putting it in his right rear pants pocket. PHELPS also took a pack of cigarettes and a lighter.
6. While Officer 1 met with the store clerk, other CCPD Officers checked the area around the Stripes store for the suspect. While searching the area Officers located a male riding a bike, who matched the description of the suspect and identified him as Kyle PHELPS. Upon making contact with PHELPS Officers observed PHELPS to be in possession of a black handgun (RUGER 9mm semi-automatic pistol) in his left front pants pocket, loose cash sticking out his right rear pants pocket, a pack of Marlboro Menthol (green pack) cigarettes and a lighter.
7. CCPD Officers arrested PHELPS and transported him to the Stripes store. Officer 1 exited the store, looked at PHELPS and was able to confirm from the store surveillance video that PHELPS is the suspect who robbed the Stripes store.
8. The Stripes convenient store is part of a chain of over 700 stores operated throughout Texas, Louisiana, New Mexico and Oklahoma. Merchandise sold at the Stripes convenient stores is received from vendors located throughout the United States thus affecting interstate commerce.
9. Based on the above information, your affiant believes Kyle PHELPS did unlawfully, in any way or degree, obstruct, delay, and affect commerce, or the movement of any article or commodity in commerce, by robbery, which is in violation of Title 18, United States Code, 1951.



Richard Miller

Supervisory Special Agent, ATF

Sworn to and subscribed before me this 18th day of September, 2019.



B. Janice Ellington

United States Magistrate Judge